

METROPOLITAN BANK AND TRUST COMPANY, PETITIONER, VS. WILFRED N. CHIOK, RESPONDENT.

G.R. No. 172652. November 26, 2014

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

The three consolidated petitions herein all assail the Decision[1] of the Court of Appeals in CA-G.R. CV No. 77508 dated May 5, 2006, and the Resolution[2] in the same case dated November 6, 2006.

Respondent Wilfred N. Chiok (Chiok) had been engaged in dollar trading for several years. He usually buys dollars from Gonzalo B. Nuguid (Nuguid) at the exchange rate prevailing on the date of the sale. Chiok pays Nuguid either in cash or manager's check, to be picked up by the latter or deposited in the latter's bank account. Nuguid delivers the dollars either on the same day or on a later date as may be agreed upon between them, up to a week later. Chiok and Nuguid had been dealing in this manner for about six to eight years, with their transactions running into millions of pesos. For this purpose, Chiok maintained accounts with petitioners Metropolitan Bank and Trust Company (Metrobank) and Global Business Bank, Inc. (Global Bank), the latter being then referred to as the Asian Banking Corporation (Asian Bank). Chiok likewise entered into a Bills Purchase Line Agreement (BPLA) with Asian Bank. Under the BPLA, checks drawn in favor of, or negotiated to, Chiok may be purchased by Asian Bank. Upon such purchase, Chiok receives a discounted cash equivalent of the amount of the check earlier than the normal clearing period.

On July 5, 1995, pursuant to the BPLA, Asian Bank "bills purchased" Security Bank & Trust Company (SBTC) Manager's Check (MC) No. 037364 in the amount of P25,500,000.00 issued in the name of Chiok, and credited the same amount to the latter's Savings Account No. 2-007-03-00201-3.

On the same day, July 5, 1995, Asian Bank issued MC No. 025935 in the amount of P7,550,000.00 and MC No. 025939 in the amount of P10,905,350.00 to Gonzalo Bernardo, who is the same person as Gonzalo B. Nuguid. The two Asian Bank manager's checks, with a total value of P18,455,350.00 were issued pursuant to Chiok's instruction and was debited from his account. Likewise upon Chiok's application, Metrobank issued Cashier's Check (CC) No. 003380 in the amount of P7,613,000.00 in the name of Gonzalo Bernardo. The same was debited from Chiok's Savings Account No. 154-42504955. The checks bought by Chiok for payee Gonzalo Bernardo are therefore summarized as follows:

Drawee Bank/Check No.

Amount (P)

Source of fund

Asian Bank MC No. 025935

7,550,000.00

Chiok's Asian Bank Savings Account No. 2-007-03-00201-3, which had been credited with the value of SBTC MC No. 037364 (P25,500,000.00) when the latter was purchased by Asian Bank from Chiok pursuant to their BPLA.

Asian Bank MC No. 025939

10,905,350.00

(aggregate value of Asian Bank MCs: 18,455,350.00)

Metrobank CC No. 003380

7,613,000.00

Chiok's Metrobank Savings Account No. 154-42504955[3]

TOTAL

26,068,350.00

Chiok then deposited the three checks (Asian Bank MC Nos. 025935 and 025939, and Metrobank CC No. 003380), with an aggregate value of P26,068,350.00 in Nuguid's account with Far East Bank & Trust Company (FEBTC), the predecessor-in-interest of petitioner Bank of the Philippine Islands (BPI). Nuguid was supposed to deliver US\$1,022,288.50,[4] the dollar equivalent of the three checks as agreed upon, in the afternoon of the same day. Nuguid, however, failed to do so, prompting Chiok to request that payment on the three checks be stopped. Chiok was allegedly advised to secure a court order within the 24-hour clearing period.

On the following day, July 6, 1995, Chiok filed a Complaint for damages with application for ex parte restraining order and/or preliminary injunction with the Regional Trial Court (RTC) of Quezon City against the spouses Gonzalo and Marinella Nuguid, and the depository banks, Asian Bank and Metrobank, represented by their respective managers, Julius de la Fuente and Alice Rivera. The complaint was docketed as Civil Case No. Q-95-24299 and was raffled to Branch 96. The complaint was later amended[5] to include the prayer of Chiok to be declared the legal owner of the proceeds of the subject checks and to be allowed to withdraw the entire proceeds thereof.

On the same day, July 6, 1995, the RTC issued a temporary restraining order (TRO) directing the spouses Nuguid to refrain from presenting the said checks for payment and the depository banks from honoring the same until further orders from the court.[6]

Asian Bank refused to honor MC Nos. 025935 and 025939 in deference to the TRO. Metrobank claimed that when it received the TRO on July 6, 1995, it refused to honor CC No. 003380 and stopped payment thereon. However, in a letter also dated July 6, 1995, Ms. Jocelyn T. Paz of FEBTC, Cubao-Araneta Branch informed Metrobank that the TRO was issued a day after the check was presented for payment. Thus, according to Paz, the transaction was already consummated and FEBTC had already validly accepted the same. In another letter, FEBTC informed Metrobank that "the restraining order indicates the name of the payee of the check as GONZALO NUGUID, but the check is in fact payable to GONZALO BERNARDO. We believe there is a defect in the restraining order and as such should not bind your bank." [7] Alice Rivera of Metrobank replied to said letters, reiterating Metrobank's position to comply with the TRO lest it be cited for contempt by the trial court. However, as would later be alleged in Metrobank's Answer before the trial court, Metrobank eventually acknowledged the check when it became clear that nothing more can be done to retrieve the proceeds of the check. Metrobank furthermore claimed that since it is the issuer of CC No. 003380, the check is its primary

obligation and should not be affected by any prior transaction between the purchaser (Chiok) and the payee (Nuguid).

In the meantime, FEBTC, as the collecting bank, filed a complaint against Asian Bank before the Philippine Clearing House Corporation (PCHC) Arbitration Committee for the collection of the value of Asian Bank MC No. 025935 and 025939, which FEBTC had allegedly allowed Nuguid to withdraw on July 5, 1995, the same day the checks were deposited. The case was docketed as Arbicom Case No. 95-082. The PCHC Arbitration Committee later relayed, in a letter dated August 4, 1995, its refusal to assume jurisdiction over the case on the ground that any step it may take might be misinterpreted as undermining the jurisdiction of the RTC over the case or a violation of the July 6, 1995 TRO.

On July 25, 1995, the RTC issued an Order directing the issuance of a writ of preliminary prohibitory injunction:

WHEREFORE, upon filing by the plaintiff of a sufficient bond in the amount of P26,068,350.00, to be executed in favor of the defendants under the condition that the same shall answer for whatever damages they may sustain by reason of this injunction should the Court ultimately determine that he was not entitled thereto, let a writ of preliminary prohibitory injunction issue restraining and preventing during the pendency of the case:

a) Defendant Asian Bank from paying Manager's Checks No. 025935 in the amount of P7,550,000.00 and No. 025939 in the amount of P10,905,350.00; and

b) Defendant Metro Bank from paying Cashier's Check No. 003380 in the amount of P7,613,000.00.

The application for preliminary mandatory injunction is hereby denied and the order issued on July 7, 1995 directing defendant Metro Bank (Annapolis, Greenhills Branch) to allow the plaintiff to withdraw the proceeds of Cashier's Check No. 003380 in the amount of P7,613,000.00 is hereby set aside.

The plaintiff's urgent motion to declare defendants Asian Bank and Metro Bank in contempt of court filed last July 13, 1995 is hereby denied for lack of legal basis.

The writ of preliminary prohibitory injunction and a copy of this order shall be served on the defendants by Deputy Sheriff Jose Martinez of this Branch.[8]

Upon the filing by Chiok of the requisite bond, the Writ was subsequently issued on July 26, 1995.

Before the RTC, Asian Bank pointed out that SBTC returned and issued a Stop Payment Order on SBTC MC No. 037364 (payable to Chiok in the amount of P25,500,000.00) on the basis of an Affidavit of Loss & Undertaking executed by a certain Helen Tan. Under said Affidavit of Loss & Undertaking, Tan claims that she purchased SBTC MC No. 037364 from SBTC, but the manager's check got lost on that day. Asian Bank argued that Chiok would therefore be liable for the dishonor of the manager's check under the terms of the BPLA, which provides for recourse against the seller (Chiok) of the check when it is dishonored by the drawee (SBTC) for any reason, whether valid or not.

On October 18, 1995, FEBTC filed a Complaint-in-Intervention in Civil Case No. Q-95-24299. On February 6, 1996, the RTC initially denied FEBTC's intervention in the case. On Motion for Reconsideration, however, the RTC, on April 15, 1996, reversed itself and allowed the same.

In the Complaint-in-Intervention, FEBTC claimed that it allowed the immediate withdrawal of the proceeds of Asian Bank MC Nos. 025935 and 025939 on the ground that, as manager's checks, they were the direct obligations of Asian Bank and were accepted in advance by Asian Bank by the mere issuance thereof. FEBTC presented the checks for payment on July 5, 1995 through the PCHC. Asian Bank, as admitted in its Answer

before the RTC, received the same on that day. Consequently, Asian Bank was deemed to have confirmed and booked payment of the subject checks in favor of FEBTC or, at the latest, during the first banking hour of July 6, 1995, when payment should have been made. FEBTC claimed that Asian Bank exhibited bad faith when, in anticipation of the TRO, it opted to float the checks until it received the TRO at 12:00 noon of July 6, 1995 to justify the nonpayment thereof.

In their own Answer, the spouses Nuguid claimed that Gonzalo Nuguid had delivered much more dollars than what was required for the three checks at the time of payment. By way of special affirmative defense, the spouses Nuguid also claims that since the subject checks had already been paid to him, Chiok is no longer entitled to an injunction (to hold the payment of the subject checks), and Civil Case No. Q-95-24299 has already become moot.

On August 29, 2002, the RTC rendered its Decision, the dispositive portion of which states:

WHEREFORE, judgment is rendered:

1. Declaring as permanent the writ of preliminary injunction issued under the Order of July 25, 1995;
2. Ordering Global Business Bank, Inc. to pay the plaintiff [Chiok]:
 - a.) The amount of P34,691,876.71 (less the attorney's fees of P255,000.00 which shall remain with Global Business Bank, Inc.), plus interest at the legal rate of 12%/p.a. from September 30, 1999 until fully paid;
 - b.) The amount of P215,000.00, representing the excess amount debited from the plaintiff's deposit in his account with Global Business Bank, Inc. on July 7, 1995, plus interest of 12%/p.a. from July 7, 1995, until fully paid;
 - c.) Attorney's fees equivalent of 5% of the total amount due; and
3. Ordering Metropolitan Bank & Trust Company to pay the plaintiff:
 - a. The amount of his deposit of P7,613,000.00, plus interest of 12%/p.a. from July 5, 1995 until said amount is fully paid; and
 - b. Attorney's fees of 5% of the total amount due;
4. Ordering Spouses Gonzalo B. Nuguid and Marinella O. Nuguid liable jointly and severally with Global Business Bank, Inc. and Metropolitan Bank & Trust Company, Inc. for the respective attorney's fees;
5. Dismissing the complaint-in-intervention of BPI for lack of merit;
6. Ordering the defendants and the intervenor to pay, jointly and severally, the costs of suit.[9] (Emphases supplied.)

The RTC held that Nuguid failed to prove the delivery of dollars to Chiok. According to the RTC, Nuguid's claim that Chiok was still liable for seven dishonored China Banking Corporation (CBC) checks with a total worth of P72,984,020.00 is highly doubtful since such claim was not presented as a counterclaim in the case. Furthermore, the court ruled that the certification of CBC stating the reasons[10] for the stop payment order "are indicative of Chiok's non-liability to Nuguid." The RTC further noted that there was a criminal case filed by Chiok against Nuguid on March 29, 1996 for estafa and other deceit on account of Nuguid's alleged failure to return the originals of the seven CBC checks.[11]

The RTC went on to rule that manager's checks and cashier's checks may be the subject of a Stop Payment Order from the purchaser on the basis of the payee's contractual breach. As explanation for this ruling, the RTC adopted its pronouncements when it issued the July 25, 1995 Order:

Defendant Nuguid's argument that the injunction could render manager's and cashier's checks unworthy of the faith they should have and could impair their nature as independent undertakings of the issuing banks is probably an undistinguished simplification. While the argument may be applicable to such checks in general, it does not adequately address the situation, as here, when specific manager's and cashier's checks are already covered by reciprocal undertakings between their purchaser and their payee, in which the latter allegedly failed to perform. The agreement herein was supposedly one in which Nuguid would deliver the equivalent amount in US dollars (\$1,022,288.23) "on the same date" that the plaintiff purchased and delivered the manager's and cashier's checks (P26,068,350.00). Assuming that such a reciprocity was true, the purchaser should have the legal protection of the injunctive writ (which, after all, the legal departments of the issuing banks themselves allegedly advised the plaintiff to obtain), since the usual order or instruction to stop payment available in case of ordinary checks did not avail. This was probably the reason that Asian Bank has expressly announced in its own comment/opposition of July 14, 1995 that it was not opposing the application for the prohibitory injunction.

The dedication of such checks pursuant to specific reciprocal undertakings between their purchasers and payees authorizes rescission by the former to prevent substantial and material damage to themselves, which authority includes stopping the payment of the checks.[12]

According to the RTC, both manager's and cashier's checks are still subject to regular clearing under the regulations of the Bangko Sentral ng Pilipinas. Since manager's and cashier's checks are the subject of regular clearing, they may consequently be refused for cause by the drawee, which refusal is in fact provided for in the PCHC Rule Book.

The RTC found the argument by BPI that the manager's and cashier's checks are pre-cleared untenable under Section 60 of the New Central Bank Act and Article 1249 of the Civil Code, which respectively provides:

Section 60. Legal Character. – Checks representing demand deposits do not have legal tender power and their acceptance in the payment of debts, both public and private, is at the option of the creditor; Provided, however, that a check which has been cleared and credited to the account of the creditor shall be equivalent to a delivery to the creditor of cash in an amount equal to the amount credited to his account.

Art. 1249. The payment of debts in money shall be made in the currency stipulated, and if it is not possible to deliver such currency, then in the currency which is legal tender in the Philippines.

The delivery of promissory notes payable to order, or bills of exchange or other mercantile documents shall produce the effect of payment only when they have been cashed, or when through the fault of the creditor they have been impaired.

In the meantime, the action derived from the original obligation shall be held in the abeyance.

The RTC went on to rule that due to the timely service of the TRO and the injunction, the value of the three checks remained with Global Bank and Metrobank.[13] The RTC concluded that since Nuguid did not have a valid title to the proceeds of the manager's and cashier's checks, Chiok is entitled to be paid back everything he had paid to the drawees for the checks.[14]

With respect to Global Bank, the RTC ruled that the entire amount of P34,691,876.71 it recovered from SBTC from the September 15, 1997 PCHC Decision, as reflected in the September 29, 1999 Charge Slip No. 114977, less the sum of P225,000.00 awarded by the arbitration committee's decision as attorney's fees, should be paid to Chiok, with interest at 12% per annum from September 30, 1999 until full payment. The RTC likewise ordered Global Bank to pay Chiok the amount of P215,390.00, an amount debited from Chiok's account as payment for outstanding bills purchase.[15]

With respect to Metrobank, the RTC ruled that it should pay Chiok P7,613,000.00, the amount paid by Chiok to purchase the CC, plus interest of 12 percent per annum from July 5, 1995 until full payment. The RTC explained this finding as follows:

The same conclusion is true with respect to Metro Bank, with whom the funds amounting to P7,613,000.00 for the purchase of CC No. 003380 has remained. According to Chiok, Metro Bank used such funds in its operations.

In the hearing on May 17, 2001, Lita Salonga Tan was offered as a witness for Metro Bank, but in lieu of her testimony, the parties agreed to stipulate on the following as her testimony, to wit:

- That Metro Bank paid the amount of CC No. 003280;
- That the payment on July 12, 1995 was made while the TRO of July 5, 1995 was in force;
- [That] the payment on July 12, 1995 was on the third clearing of CC No. 003380; and
- That the PCHC Rule book was the authority on the rules and regulations on the clearing operations of banks.

The payment to FEBTC by Metro Bank of CC No. 003380 on July 12, 1995 was an open defiance of the TRO of July 6, 1995. Metro Bank's Branch Manager Alice Rivera, through her letter of July 10, 1995 to FEBTC as the collecting bank, returned the CC to FEBTC in compliance with the TRO which was received about 12:10 noon of July 6, 1999. Hence, Metro Bank should not have paid because the TRO was served within the 24-hour period to clear checks.

Moreover, the payment, being made on third clearing, was unjustified for violating existing regulations, particularly paragraph 1 of the Clearing House Operating Memo (CHOM), effective September 1, 1984, which prohibited the reclearing of a check after its first presentation if it was returned for the reason of "stop payment" or "closed account."

It also seems that Metro Bank paid the CC without first checking whether, in fact, any actual payment of the 3 checks had been made on July 5, 1995 to the payee when the checks were deposited in payee's account with FEBTC on July 5, 1995. The records show no such payment was ever made to render the TRO of July 6, 1995 or the writ of preliminary injunction applied for moot and academic.

Jessy A. Degaños – adopted by Metro Bank as its own witness in injunction hearing of July 24, 1995 – stated that the payment of the 3 checks consisted of the accounting entry made at the PCHC during the presenting process by debiting the respective accounts of the drawees and crediting the account of collecting bank FEBTC. Yet, as already found hereinabove, such process was reversed due to the return by the drawees of the checks which they dishonored on account of the TRO.

Also, Degaños, testifying on January 17, 2002 for intervenor BPI, was asked in what form was the withdrawal of the amounts of the checks made by Nuguid on July 5, 1995, that is, whether:- 1) cash withdrawal; or 2) credit to Nuguid's account; or 3) draft issued to Nuguid. His reply was that only the bank's branch which serviced the payee's account could provide the answer. Yet, BPI did not present any competent personnel from the branch concerned to enlighten the Court on this material point.

This amount of P7,613,000.00, having remained with Metro Bank since the service of the TRO of July 6, 1995 and the writ of preliminary injunction issued under the Order of July 25, 1998, should be returned to Chiok with interest of 12%/p.a. from July 7, 1995 until full payment.[16] (Citations omitted.)

The RTC likewise denied BPI's complaint-in-intervention to recover the value of the three checks from drawees Global Bank and Metrobank for lack of merit. The RTC, after reprimanding Global Bank and Metrobank for siding with BPI on this issue, held that BPI, as a mere collecting bank of the payee with a void title to the checks,

had no valid claim as to the amounts of such checks. The RTC explained:

Firstly: BPI, being a collecting bank in relation to the 3 checks, was merely performing collection services as an agent of Nuguid, the payee. If, as found hereinbefore, Nuguid could not have legal title to the 3 checks, it follows that BPI could not stake any claim for title better than Nuguid's own void title. Consequently, BPI has no right to claim the amounts of the 3 checks from the drawee-banks.

Secondly: The purpose of the delivery of the 3 checks to BPI – which was not even accompanied by Nuguid's endorsement – was solely for deposit in the account of payee Nuguid. Assuming, for the sake of argument, that BPI as the collecting bank paid the value of the checks – of which fact there has been no proof whatsoever – BPI was nonetheless, at best, a mere transferee whose title was no better than the void title of the transferor, payee Nuguid. Under such circumstance, BPI has no legal basis to demand payment of the amounts of the 3 checks from the drawee-banks.

Thirdly: Under Sec. 49, Negotiable Instruments Law, BPI, as transferee without indorsement, was not considered a holder of the instrument since it was neither a payee nor an indorsee. It would become so only when and if the indorsement is actually made, and only as of then, but not before, is the issue whether BPI was a holder in due course or not is determined.

Consequently, any alleged payment by BPI as the collecting bank, through the supposed though unproved withdrawal of the amounts of the 3 checks by Nuguid upon the deposit of the checks on July 5, 1995, is not the payment which discharges liability under the 3 checks because BPI is neither the party primarily liable nor the drawee.

Such a payment, if true, is akin to, if it is not, drawing against uncollected deposits (DAUD). In such a case, BPI was in duty bound to send the 3 checks to the PCHC for clearing pursuant to Section 1603.c.1 of the BSP Manual of Regulations and Sec. 60, R.A. No. 7653. It serves well to note herein that Global Bank and Metro Bank returned the checks through the PCHC on July 6, 1995, well within the 24-hour clearing period, in compliance with the TRO of July 6, 1995.

Finally: As earlier noted and discussed, there is no evidence of any prior valid payment by the collecting bank to support its claim of the amounts of the 3 checks against the defendant banks.[17] (Citation omitted.)

The RTC held Global Bank and Metrobank liable for attorney's fees equivalent to 5% of the total amount due them, while the spouses Nuguid were held solidarily liable for said fees.

Defendants Global Bank, Metrobank, and the spouses Nuguid, and intervenor BPI filed separate notices of appeal, which were approved in the Order[18] dated April 3, 2003. Chiok filed a Motion to Dismiss against the appeal of Global Bank, on the ground that the latter had ceased to operate as a banking institution.

On May 26, 2004, the Court of Appeals dismissed the appeal of the spouses Nuguid pursuant to Section 1(e), Rule 50 of the Rules of Court, on account of their failure to file their appellant's brief. In the same Resolution, the Court of Appeals denied Chiok's Motion to Dismiss.

On May 5, 2006, the Court of Appeals rendered the assailed Decision affirming the RTC Decision with modifications. The fallo of the Decision reads:

WHEREFORE, premises considered, the Decision dated August 29, 2000 of the RTC, Branch 96, Quezon City is AFFIRMED with the following MODIFICATIONS:

1.)

The contract to buy foreign currency in the amount of \$1,022,288.50 between plaintiff-appellee Wilfred N. Chiok and defendant Gonzalo B. Nuguid is hereby rescinded. Corollarily, Manager's Check Nos. 025935 and

025939 and Cashier's Check No. 003380 are ordered cancelled.

2.)

Global Business Holdings, Inc. is ordered to credit Savings Account No. 2-007-03-00201-3 with:

a)

The amount of P25,500,000.00, plus interest at 4% from September 29, 1999 until withdrawn by plaintiff-appellee;

b)

The amount of P215,390.00, plus interest at 4% from July 7, 1995 until withdrawn by plaintiff-appellee.

3.)

Metropolitan Bank & Trust Company is ordered to credit Savings Account No. 154-42504955 the amount of P7,613,000.00, with interest at 6% [per annum] from July 12, 1995 until the same is withdrawn;

4.)

The Spouses Gonzalo B. Nuguid and Marinella O. Nuguid are ordered to pay attorney's fees equivalent to 5% of the total amount due to plaintiff-appellee from both depository banks, as well as the costs of suit.[19]

According to the Court of Appeals, Article 1191 of the Civil Code provides a legal basis of the right of purchasers of MCs and CCs to make a stop payment order on the ground of the failure of the payee to perform his obligation to the purchaser. The appellate court ruled that such claim was impliedly incorporated in Chiok's complaint. The Court of Appeals held:

By depositing the subject checks to the account of Nuguid, Chiok had already performed his obligation under the contract, and the subsequent failure of Nuguid to comply with what was incumbent upon him gave rise to an action for rescission pursuant to Article 1191 of the Civil Code, which states:

Art. 1191. The power to rescind obligations is implied in reciprocal ones, in case one of the obligors should not comply with what is incumbent upon him.

The injured party may choose between the fulfillment and the rescission of the obligation, with the payment of damages in either case. He may also seek rescission, even after he has chosen fulfillment, if the latter should become impossible.

The court shall decree the rescission claimed, unless there be just cause authorizing the fixing of a period.

X X X X

Although the complaint a quo was entitled "DAMAGES, W/ EX PARTE RESTRAINING ORDER/INJUNCTION" when the action was really one for rescission and damages, it is an elementary rule of procedure that what controls or determines the nature of the action is not the caption of the complaint but the allegations contained therein. And even without the prayer for a specific remedy, proper relief may nevertheless be granted by the court if the facts alleged in the complaint and the evidence introduced so warrant.

That Chiok had intended rescission is evident from his prayer to be declared the legal owner of the proceeds of the subject checks and to be allowed to withdraw the same. Therefore, the argument of BPI that the obligation on the part of Nuguid to deliver the dollars still subsists is untenable. Article 1385 of the same Code provides that rescission creates the obligation to return the things which were the object of the contract, together with their fruits, and the price with its interest. The object of the contract herein to buy foreign currency is the peso-value of

the dollars bought but in the form of negotiable instruments – Manager’s Check/Cashier’s Check. Hence, respecting the negotiation thereof, and in order to afford complete relief to Chiok, there arose the necessity for the issuance of the injunction restraining the payment of the subject checks with the end in view of the eventual return of the proceeds to give effect to Article 1385. In other words, the injunctive relief was necessary in order not to render ineffectual the judgment in the instant case. We quote with approval the following disquisition of the trial court, to wit:

x x x x

There is no question about the nature of manager’s and cashier’s checks being as good as cash, being primary obligations of the issuing bank and accepted in advance by their mere issuance. But even as such nature of unconditional commitment to pay on the part of the issuing bank may be conceded, the Court opines that the injunctive relief cannot be denied to a party who purchased the manager’s or cashier’s check to stop its payment to the payee in a suit against the payee and the issuing banks upon a claim that the payee himself had not performed his reciprocal obligation for which the issuance and delivery of the self-same manager’s or cashier’s check were, in the first place, made x x x.

It bears stressing that the subject checks would not have been issued were it not for the contract between Chiok and Nuguid. Therefore, they cannot be disassociated from the contract and given a distinct and exclusive signification, as the purchase thereof is part and parcel of the series of transactions necessary to consummate the contract. Taken in this light, it cannot be argued that the issuing banks are bound to honor only their unconditional undertakings on the subject checks vis-à-vis the payee thereof regardless of the failed transaction between the purchaser of the checks and the payee on the ground that the banks were not privy to the said transaction.

Lest it be forgotten, the purchase of the checks was funded by the account of Chiok with the banks. As such, the banks were equally obligated to treat the account of their depositor with meticulous care bearing in mind the fiduciary nature of their relationship with the depositor. Surely, the banks would not allow their depositor to sit idly by and watch the dissipation of his livelihood considering that the business of foreign currency exchange is a highly volatile undertaking where the probability of losing or gaining is counted by the ticking of the clock. With the millions of money involved in this transaction, Chiok could not afford to be complacent and his vigilance for his rights could not have been more opportune under the circumstances.[20] (Citations omitted.)

The Court of Appeals proceeded to sustain the dismissal of BPI’s complaint-in-intervention, which sought to recover from Global Bank the amounts allegedly paid to Nuguid. The Court of Appeals pointed out that BPI failed to prove the alleged withdrawal by Nuguid of the proceeds of the two manager’s checks, as BPI’s representative, Jessy A. Degaños, failed to answer the question on the form of the alleged withdrawal. Furthermore, BPI failed to prove that it was a holder in due course of the subject manager’s checks, for two reasons: (1) the checks were not indorsed to it by Nuguid; and (2) BPI never presented its alleged bills purchase agreement with Nuguid.[21]

The Court of Appeals likewise modified the order by the RTC for Global Bank and Metrobank to pay Chiok. The Court of Appeals held that Chiok’s cause of action against Global Bank is limited to the proceeds of the two manager’s checks. Hence, Global Bank was ordered to credit Chiok’s Savings Account No. 2-007-03-00201-3 with the amount of P25,500,000.00, the aggregate value of the two managers’ checks, instead of the entire P34,691,876.71 recovered from SBTC from the September 15, 1997 PCHC Decision. The interest was also reduced from 12% per annum to that imposed upon savings deposits, which was established during the trial as 4% per annum.[22]

As regards Metrobank, the appellate court noted that there was no evidence as to the interest rate imposed upon savings deposits at Metrobank. Metrobank was ordered to credit the amount of P7,613,000.00 to Chiok’s Savings

Account No. 154-42504955, with interest at 6% per annum.[23]

Global Bank and BPI filed separate Motions for Reconsideration of the May 5, 2006 Court of Appeals' Decision. On November 6, 2006, the Court of Appeals denied the Motions for Reconsideration.

Metrobank (G.R. No. 172652), BPI (G.R. No. 175302), and Global Bank (G.R. No. 175394) filed with this Court separate Petitions for Review on Certiorari. In Resolutions dated February 21, 2007[24] and March 12, 2007,[25] this Court resolved to consolidate the three petitions.

Metrobank submitted the following issues for the consideration of this Court:

(A)

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN RULING THAT "IT IS LEGALLY POSSIBLE FOR A PURCHASER OF A MANAGER'S CHECK OR CASHIER'S CHECK TO STOP PAYMENT THEREON THROUGH A COURT ORDER ON THE GROUND OF THE PAYEE'S ALLEGED BREACH OF CONTRACTUAL OBLIGATION AMOUNTING TO AN ABSENCE OF CONSIDERATION THEREFOR."

(B)

GRANTING ARGUENDO THAT A MANAGER'S CHECK OR CASHIER'S CHECK, "IN VIEW OF THE PECULIAR CIRCUMSTANCES OF THIS CASE" MAY BE SUBJECT TO A STOP PAYMENT ORDER BY THE PURCHASER THEREOF THROUGH A COURT ORDER, WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN CONCLUDING THAT PETITIONER HEREIN "HAD KNOWLEDGE OF CIRCUMSTANCES THAT WOULD DEFEAT THE TITLE OF THE PAYEE TO THE CHECKS" WITHOUT, HOWEVER, CITING ANY SPECIFIC EVIDENCE WHICH WOULD PROVE THE EXISTENCE OF SUCH KNOWLEDGE.

(C)

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN SUSTAINING THE TRIAL COURT'S ORDER FOR PETITIONER HEREIN "TO PAY (TO CHIOK) THE VALUE OF CASHIER'S CHECK NO. 003380 IN THE AMOUNT OF P7,613,000.00, WHICH WAS DEBITED AGAINST CHIOK'S SAVINGS ACCOUNT # 154-42504955 ON THE OBSERVATION THAT THE PAYMENT TO FEBTC BY METROBANK OF CC NO. 003380 ON JULY 12, 1995 WAS AN OPEN DEFIANCE OF THE TRO OF JULY 6, 1995."[26]

BPI, on the other hand, presented the following issues:

I.

Whether or not the Court of Appeals detracted from well-settled concepts and principles in commercial law regarding the nature, causes, and effects of a manager's check and cashier's check in ruling that [the] power of the court can be invoked by the purchaser [Chiok] in a proper action, which the Court su[b]stantially construed as a rescissory action or the power to rescind obligations under Article 1191 of the Civil Code.

II.

Whether or not the Honorable Court of Appeals erred in ruling that where a purchaser invokes rescission due to an alleged breach of the payee's contractual obligation, it is deemed as "peculiar circumstance" which justifies a stop payment order issued by the purchaser or a temporary restraining order/injunction from a Court to prevent payment of a Manager's Check or a Cashier's Check.

III.

Whether or not the Honorable Court of Appeals erred in ruling that judicial admissions in the pleadings of Nuguid, BPI, Asian Bank, Metrobank and even Chiok himself that Nuguid had withdrawn the proceeds of the checks will not defeat Chiok's "substantial right" to restrain the drawee bank from paying BPI, the collecting bank or presenting bank in this case who paid the value of the Cashier's/Manager's Checks to the payee.[27]

Finally, Global Bank rely upon the following grounds in its petition with this Court:

A.

THE COURT OF APPEALS GRAVELY ERRED IN RULING THAT PETITIONER GLOBAL BANK HAD NO JUSTIFICATION FOR ITS RIGHT OF RECOURSE AGAINST RESPONDENT CHIOK NOTWITHSTANDING THE CLEAR AND UNMISTAKABLE PROVISIONS OF THE BILLS PURCHASE AGREEMENT.

B.

THE COURT OF APPEALS GRAVELY ERRED IN MAKING PETITIONER GLOBAL BANK LIABLE FOR INTEREST OF 4% PER ANNUM DESPITE THE FACT THAT:

- RESPONDENT DID NOT ASK FOR SUCH RELIEF IN HIS COMPLAINT;
- RESPONDENT HAD WAIVED HIS RIGHT TO ANY INTEREST; AND
- THERE IS NO EVIDENCE ON RECORD AS THE BASIS FOR ANY INTEREST.[28]

Before delving into the merits of these cases, we shall first dispose of a procedural development during their pendency with the Court.

Joint Manifestation and Motion allegedly
filed by Metrobank, Global Bank and
respondent Chiok

On May 28, 2013, this Court received a Joint Manifestation and Motion allegedly filed by petitioners Metrobank, Global Bank, and respondent Chiok, which reads:

PETITIONERS METROPOLITAN BANK & TRUST COMPANY & GLOBAL BUSINESS BANK, INC., and RESPONDENT WILFRED N. CHIOK, by their respective counsels, unto this Honorable Court, respectfully state that after a thorough consideration, the parties herein have decided to forego their respective claims against each other, including, past, present and/or contingent, in relation to the above-referenced cases.

P R A Y E R

WHEREFORE, it is respectfully prayed that no further action be taken by this Honorable Court on the foregoing petitions, that the instant proceedings be declared CLOSED and TERMINATED, and that an Order be rendered dismissing the above-referenced cases with prejudice.

In the above Joint Manifestation and Motion, respondent Chiok was not represented by his counsel of record, Cruz Durian Alday and Cruz-Matters, but was assisted by Espiritu Vitales Espiritu Law Office, with Atty. Cesar D. Vitales as signatory, by way of special appearance and assistance.

On June 19, 2013, this Court issued a Resolution requiring petitioner BPI to comment on the Joint Manifestation and Motion filed by its co-petitioners Metrobank, Global Bank, and respondent Chiok. The Resolution reads:

Considering the joint manifestation and motion of petitioners Metropolitan Bank and Trust Company and Global Business Bank, Inc., and respondent, that after a thorough consideration, they have decided to forego their respective claims against each other, including past, present and/or contingent, in these cases and praying that the instant proceedings in G.R. Nos. 172652 and 175394 be declared closed and terminated, the Court

resolves to require petitioner Bank of the Philippine Islands to COMMENT thereon within ten (10) days from notice thereof x x x.

On September 12, 2013, respondent Chiok, this time assisted by his counsel of record, Cruz Durian Alday & Cruz-Matters, filed a Motion for Reconsideration of our Resolution dated June 19, 2013. The signatory to the Motion for Reconsideration, Atty. Angel Cruz, grossly misread our Resolution requiring BPI to comment on the Joint Manifestation and Motion, and apparently contemplated that we are already granting said Motion. Atty. Cruz objected to the Joint Manifestation and Motion, labeling the same as tainted with fraud. According to Atty. Cruz, Espiritu Vitales and Espiritu's failure to give prior notice to him is in violation of Canon 8 of the Code of Professional Responsibility. Atty. Cruz prays that Metrobank and Global Bank be ordered to submit a document of their settlement showing the amounts paid to Chiok, and for the June 19, 2013 Resolution of this Court be reconsidered and set aside.

On October 9, 2013, BPI filed its comment to the Joint Manifestation and Motion, opposing the same for being an implied procedural shortcut to a Compromise Agreement. It averred that while the courts encourage parties to amicably settle cases, such settlements are strictly scrutinized by the courts for approval. BPI also pointed out that the Joint Manifestation and Motion was not supported by any required appropriate Board Resolution of Metrobank and Global Bank granting the supposed signatories the authority to enter into a compromise. BPI prayed that the Joint Manifestation and Motion of Metrobank, Global Bank, and Chiok be denied, and to render a full Decision on the merits reversing the Decision of the Court of Appeals.

On January 20, 2014, Global Bank filed a Comment to Atty. Cruz's Motion for Reconsideration on behalf of Chiok, praying that said Motion be expunged from the records for failure of Atty. Cruz to indicate the number and date of issue of his MCLE Certificate of Compliance or Certificate of Exemption for the immediately preceding compliance period.

As far as this Court is concerned, the counsel of record of respondent Chiok is still Cruz Durian Alday & Cruz-Matters. The requisites of a proper substitution of counsel of record are stated and settled in jurisprudence:

No substitution of counsel of record is allowed unless the following essential requisites of a valid substitution of counsel concur: (1) there must be a written request for substitution; (2) it must be filed with the written consent of the client; (3) it must be with the written consent of the attorney to be substituted; and (4) in case the consent of the attorney to be substituted cannot be obtained, there must be at least a proof of notice that the motion for substitution was served on him in the manner prescribed by the Rules of Court.[29] (Citation omitted.)

Therefore, while we should indeed require Atty. Cruz to indicate the number and date of issue of his MCLE Certificate of Compliance or Certificate of Exemption for the immediately preceding compliance period, he is justified in pointing out the violation of Canon 8[30] of the Code of Professional Responsibility, Rule 8.02 of which provides:

Rule 8.02. – A lawyer shall not, directly or indirectly, encroach upon the professional employment of another lawyer; however, it is the right of any lawyer, without fear or favor, to give proper advice and assistance to those seeking relief against unfaithful or neglectful counsel.

We should also give weight to the opposition of BPI to the supposed compromise agreement. As stated above, the consolidated petitions filed by Metrobank, BPI, and Global Bank all assail the Decision of the Court of Appeals in CA-G.R. CV No. 77508 dated May 5, 2006, and the Resolution on the same case dated November 6, 2006. BPI itself has a claim against Global Bank, which appear to be intimately related to issues brought forth in the other consolidated petitions.

Furthermore, the failure of the parties to the Joint Manifestation and Motion to declare with particularity the terms of their agreement prevents us from approving the same so as to allow it to attain the effect of *res judicata*. A judicial compromise is not a mere contract between the parties. Thus, we have held that:

A compromise agreement intended to resolve a matter already under litigation is a judicial compromise. Having judicial mandate and entered as its determination of the controversy, such judicial compromise has the force and effect of a judgment. It transcends its identity as a mere contract between the parties, as it becomes a judgment that is subject to execution in accordance with the Rules of Court. Thus, a compromise agreement that has been made and duly approved by the court attains the effect and authority of *res judicata*, although no execution may be issued unless the agreement receives the approval of the court where the litigation is pending and compliance with the terms of the agreement is decreed.[31] (Citation omitted.)

We are therefore constrained to deny the Joint Manifestation and Motion filed with this Court on May 28, 2013 and to hereby decide the consolidated petitions on their merits.

The Court's ruling on the merits
of these consolidated petitions

Whether or not payment of manager's
and cashier's checks are subject to the
condition that the payee thereof should
comply with his obligations to the
purchaser of the checks

The legal effects of a manager's check and a cashier's check are the same. A manager's check, like a cashier's check, is an order of the bank to pay, drawn upon itself, committing in effect its total resources, integrity, and honor behind its issuance. By its peculiar character and general use in commerce, a manager's check or a cashier's check is regarded substantially to be as good as the money it represents.[32] Thus, the succeeding discussions and jurisprudence on manager's checks, unless stated otherwise, are applicable to cashier's checks, and vice versa.

The RTC effectively ruled that payment of manager's and cashier's checks are subject to the condition that the payee thereof complies with his obligations to the purchaser of the checks:

The dedication of such checks pursuant to specific reciprocal undertakings between their purchasers and payees authorizes rescission by the former to prevent substantial and material damage to themselves, which authority includes stopping the payment of the checks.

Moreover, it seems to be fallacious to hold that the unconditional payment of manager's and cashier's checks is the rule. To begin with, both manager's and cashier's checks are still subject to regular clearing under the regulations of the Bangko Sentral ng Pilipinas, a fact borne out by the BSP manual for banks and intermediaries, which provides, among others, in its Section 1603.1, c, as follows:

x x x x

c. Items for clearing. All checks and documents payable on demand and drawn against a bank/branch, institution or entity allowed to clear may be exchanged through the Clearing Office in Manila and the Regional Clearing Units in regional clearing centers designated by the Central Bank x x x.[33]

The RTC added that since manager's and cashier's checks are the subject of regular clearing, they may consequently be refused for cause by the drawee, which refusal is in fact provided for in Section 20 of the Rule Book of the PCHC:

Sec. 20 – REGULAR RETURN ITEM PROCEDURE

20.1 Any check/item sent for clearing through the PCHC on which payment should be refused by the Drawee Bank in accordance with long standing and accepted banking practices, such as but not limited to the fact that:

- (a) it bears the forged or unauthorized signature of the drawer(s); or
- (b) it is drawn against a closed account; or
- (c) it is drawn against insufficient funds; or
- (d) payment thereof has been stopped; or
- (e) it is post-dated or stale-dated; and
- (f) it is a cashier's/manager's/treasurer's check of the drawee which has been materially altered;

shall be returned through the PCHC not later than the next regular clearing for local exchanges and the acceptance of said return by the Sending Bank shall be mandatory.

It goes without saying that under the aforecited clearing rule[,] the enumeration of causes to return checks is not exclusive but may include other causes which are consistent with long standing and accepted banking practices. The reason of plaintiffs can well constitute such a justifiable cause to enjoin payment.[34]

The RTC made an error at this point. While indeed, it cannot be said that manager's and cashier's checks are pre-cleared, clearing should not be confused with acceptance. Manager's and cashier's checks are still the subject of clearing to ensure that the same have not been materially altered or otherwise completely counterfeited. However, manager's and cashier's checks are pre-accepted by the mere issuance thereof by the bank, which is both its drawer and drawee. Thus, while manager's and cashier's checks are still subject to clearing, they cannot be countermanded for being drawn against a closed account, for being drawn against insufficient funds, or for similar reasons such as a condition not appearing on the face of the check. Long standing and accepted banking practices do not countenance the countermanding of manager's and cashier's checks on the basis of a mere allegation of failure of the payee to comply with its obligations towards the purchaser. On the contrary, the accepted banking practice is that such checks are as good as cash. Thus, in *New Pacific Timber & Supply Company, Inc. v. Hon. Seneris*,[35] we held:

It is a well-known and accepted practice in the business sector that a Cashier's Check is deemed as cash. Moreover, since the said check had been certified by the drawee bank, by the certification, the funds represented by the check are transferred from the credit of the maker to that of the payee or holder, and for all intents and purposes, the latter becomes the depositor of the drawee bank, with rights and duties of one in such situation. Where a check is certified by the bank on which it is drawn, the certification is equivalent to acceptance. Said certification "implies that the check is drawn upon sufficient funds in the hands of the drawee, that they have been set apart for its satisfaction, and that they shall be so applied whenever the check is presented for payment. It is an understanding that the check is good then, and shall continue good, and this agreement is as binding on the bank as its notes in circulation, a certificate of deposit payable to the order of the depositor, or any other obligation it can assume. The object of certifying a check, as regards both parties, is to enable the holder to use it as money." When the holder procures the check to be certified, "the check operates as an assignment of a part of the funds to the creditors." Hence, the exception to the rule enunciated under Section 63 of the Central Bank Act to the effect "that a check which has been cleared and credited to the account of the creditor shall be equivalent to a delivery to the creditor in cash in an amount equal to the amount credited to his account" shall apply in this case. x x x. (Emphases supplied, citations omitted.)

Even more telling is the Court's pronouncement in *Tan v. Court of Appeals*,[36] which unequivocally settled the unconditional nature of the credit created by the issuance of manager's or cashier's checks:

A cashier's check is a primary obligation of the issuing bank and accepted in advance by its mere issuance. By its very nature, a cashier's check is the bank's order to pay drawn upon itself, committing in effect its total resources, integrity and honor behind the check. A cashier's check by its peculiar character and general use in the commercial world is regarded substantially to be as good as the money which it represents. In this case, therefore, PCIB by issuing the check created an unconditional credit in favor of any collecting bank. (Emphases supplied, citations omitted.)

Furthermore, under the principle of ejusdem generis, where a statute describes things of a particular class or kind accompanied by words of a generic character, the generic word will usually be limited to things of a similar nature with those particularly enumerated, unless there be something in the context of the statute which would repel such inference.[37] Thus, any long standing and accepted banking practice which can be considered as a valid cause to return manager's or cashier's checks should be of a similar nature to the enumerated cause applicable to manager's or cashier's checks: material alteration. As stated above, an example of a similar cause is the presentation of a counterfeit check.

Whether or not the purchaser of
manager's and cashier's checks has
the right to have the checks cancelled
by filing an action for rescission of its
contract with the payee

The Court of Appeals affirmed the order of the RTC for Global Bank and Metrobank to pay Chiok for the amounts of the subject manager's and cashier's checks. However, since it is clear to the appellate court that the payment of manager's and cashier's checks cannot be considered to be subject to the condition the payee thereof complies with his obligations to the purchaser of the checks, the Court of Appeals provided another legal basis for such liability – rescission under Article 1191 of the Civil Code:

WHEREFORE, premises considered, the Decision dated August 29, 2000 of the RTC, Branch 96, Quezon City is AFFIRMED with the following MODIFICATIONS:

1.)

The contract to buy foreign currency in the amount of \$1,022,288.50 between plaintiff-appellee Wilfred N. Chiok and defendant Gonzalo B. Nuguid is hereby rescinded. Corollarily, Manager's Check Nos. 025935 and 025939 and Cashier's Check No. 003380 are ordered cancelled.[38]

According to the Court of Appeals, while such rescission was not mentioned in Chiok's Amended Complaint, the same was evident from his prayer to be declared the legal owner of the proceeds of the subject checks and to be allowed to withdraw the same. Since rescission creates the obligation to return the things which are the object of the contract, together with the fruits, the price and the interest,[39] injunctive relief was necessary to restrain the payment of the subject checks with the end in view of the return of the proceeds to Chiok.[40]

Thus, as it was construed by the Court of Appeals, the Amended Complaint of Chiok was in reality an action for rescission of the contract to buy foreign currency between Chiok and Nuguid. The Court of Appeals then proceeded to cancel the manager's and cashier's checks as a consequence of the granting of the action for rescission, explaining that "the subject checks would not have been issued were it not for the contract between Chiok and Nuguid. Therefore, they cannot be disassociated from the contract and given a distinct and exclusive signification, as the purchase thereof is part and parcel of the series of transactions necessary to consummate the contract." [41]

We disagree with the above ruling.

The right to rescind invoked by the Court of Appeals is provided by Article 1191 of the Civil Code, which reads:

Art. 1191. The power to rescind obligations is implied in reciprocal ones, in case one of the obligors should not comply with what is incumbent upon him.

The injured party may choose between the fulfillment and the rescission of the obligation, with the payment of damages in either case. He may also seek rescission, even after he has chosen fulfillment, if the latter should become impossible.

The court shall decree the rescission claimed, unless there be just cause authorizing the fixing of a period.

This is understood to be without prejudice to the rights of third persons who have acquired the thing, in accordance with Articles 1385 and 1388 and the Mortgage Law.

The cause of action supplied by the above article, however, is clearly predicated upon the reciprocity of the obligations of the injured party and the guilty party. Reciprocal obligations are those which arise from the same cause, and in which each party is a debtor and a creditor of the other, such that the obligation of one is dependent upon the obligation of the other. They are to be performed simultaneously such that the performance of one is conditioned upon the simultaneous fulfillment of the other.[42] When Nuguid failed to deliver the agreed amount to Chiok, the latter had a cause of action against Nuguid to ask for the rescission of their contract. On the other hand, Chiok did not have a cause of action against Metrobank and Global Bank that would allow him to rescind the contracts of sale of the manager's or cashier's checks, which would have resulted in the crediting of the amounts thereof back to his accounts.

Otherwise stated, the right of rescission[43] under Article 1191 of the Civil Code can only be exercised in accordance with the principle of relativity of contracts under Article 1131 of the same code, which provides:

Art. 1311. Contracts take effect only between the parties, their assigns and heirs, except in case where the rights and obligations arising from the contract are not transmissible by their nature, or by stipulation or by provision of law. x x x.

In several cases, this Court has ruled that under the civil law principle of relativity of contracts under Article 1131, contracts can only bind the parties who entered into it, and it cannot favor or prejudice a third person, even if he is aware of such contract and has acted with knowledge thereof.[44] Metrobank and Global Bank are not parties to the contract to buy foreign currency between Chiok and Nuguid. Therefore, they are not bound by such contract and cannot be prejudiced by the failure of Nuguid to comply with the terms thereof.

Neither could Chiok be validly granted a writ of injunction against Metrobank and Global Bank to enjoin said banks from honoring the subject manager's and cashier's checks. It is elementary that "(a)n injunction should never issue when an action for damages would adequately compensate the injuries caused. The very foundation of the jurisdiction to issue the writ of injunction rests in the fact that the damages caused are irreparable and that damages would not adequately compensate." [45] Chiok could have and should have proceeded directly against Nuguid to claim damages for breach of contract and to have the very account where he deposited the subject checks garnished under Section 7(d)[46] and Section 8,[47] Rule 57 of the Rules of Court. Instead, Chiok filed an action to enjoin Metrobank and Global Bank from complying with their primary obligation under checks in which they are liable as both drawer and drawee.

It is undisputed that Chiok personally deposited the subject manager's and cashier's checks to Nuguid's account. If the intention of Chiok was for Nuguid to be allowed to withdraw the proceeds of the checks after clearing, he could have easily deposited personal checks, instead of going through the trouble of purchasing manager's and cashier's checks. Chiok therefore knew, and actually intended, that Nuguid will be allowed to immediately

withdraw the proceeds of the subject checks. The deposit of the checks which were practically as good as cash was willingly and voluntarily made by Chiok, without any assurance that Nuguid will comply with his end of the bargain on the same day. The explanation for such apparently reckless action was admitted by Chiok in the Amended Complaint itself:

That plaintiff [Chiok] due to the number of years (five to seven years) of business transactions with defendant [Nuguid] has reposed utmost trust and confidence on the latter that their transactions as of June 1995 reaches millions of pesos. x x x.[48] (Emphases supplied.)

As between two innocent persons, one of whom must suffer the consequences of a breach of trust, the one who made it possible by his act of confidence must bear the loss.[49] Evidently, it was the utmost trust and confidence reposed by Chiok to Nuguid that caused this entire debacle, dragging three banks into the controversy, and having their resources threatened because of an alleged default in a contract they were not privy to.

Whether or not the peculiar
circumstances of this case justify
the deviation from the general
principles on causes and effects of
manager's and cashier's checks

The Court of Appeals, while admitting that the general principles on the causes and effects of manager's and cashier's checks do not allow the countermanding of such checks on the basis of an alleged failure of consideration of the payee to the purchaser, nevertheless held that the peculiar circumstances of this case justify a deviation from said general principles, applying the aforementioned case of Mesina. The Court of Appeals held:

At the core of the appeal interposed by the intervenor BPI, as well as the depository banks, Global Bank and Metrobank, is the issue of whether or not it is legally possible for a purchaser of a Manager's Check or Cashier's Check to stop payment thereon through a court order on the ground of the payee's alleged breach of contractual obligation amounting to an absence of consideration therefor.

In view of the peculiar circumstances of this case, and in the interest of substantial justice, We are constrained to rule in the affirmative.

x x x x

In the case of Mesina v. Intermediate Appellate Court, cited by BPI in its appeal brief, the Supreme Court had the occasion to rule that general principles on causes and effects of a cashier's check, i.e., that it cannot be countermanded in the hands of a holder in due course and that it is a bill of exchange drawn by the bank against itself, cannot be applied without considering that the bank was aware of facts (in this case, the cashier's check was stolen) that would not entitle the payee thereof to collect on the check and, consequently, the bank has the right to refuse payment when the check is presented by the payee.

While the factual milieu of the Mesina case is different from the case at bench, the inference drawn therein by the High Court is nevertheless applicable. The refusal of Nuguid to deliver the dollar equivalent of the three checks in the amount of \$1,022,288.50 in the afternoon of July 5, 1995 amounted to a failure of consideration that would not entitle Nuguid to collect on the subject checks.

x x x x

Let it be emphasized that in resolving the matter before Us, We do not detract from well-settled concepts and principles in commercial law regarding the nature, causes and effects of a manager's check and cashier's check. Such checks are primary obligations of the issuing bank and accepted in advance by the mere issuance thereof. They are a bank's order to pay drawn upon itself, committing in effect its total resources, integrity,

and honor. By their peculiar character and general use in the commercial world, they are regarded substantially as good as the money they represent. However, in view of the peculiar circumstances of the case at bench, We are constrained to set aside the foregoing concepts and principles in favor of the exercise of the right to rescind a contract upon the failure of consideration thereof.[50] (Emphases ours, citations omitted.)

In deviating from general banking principles and disposing the case on the basis of equity, the courts a quo should have at least ensured that their dispositions were indeed equitable. This Court observes that equity was not served in the dispositions below wherein Nuguid, the very person found to have violated his contract by not delivering his dollar obligation, was absolved from his liability, leaving the banks who are not parties to the contract to suffer the losses of millions of pesos.

The Court of Appeals' reliance in the 1986 case of Mesina was likewise inappropriate. In Mesina, respondent Jose Go purchased from Associated Bank a cashier's check for P800,000.00, payable to bearer.[51] Jose Go inadvertently left the check on the top desk of the bank manager when he left the bank. The bank manager entrusted the check for safekeeping to a certain bank official named Albert Uy, who then had a certain Alexander Lim as visitor. Uy left his desk to answer a phone call and to go to the men's room. When Uy returned to his desk, Lim was gone. Jose Go inquired for his check from Uy, but the check was nowhere to be found. At the advice of Uy, Jose Go accomplished a Stop Payment Order and executed an affidavit of loss. Uy reported the loss to the police. Petitioner Marcelo Mesina tried to encash the check with Prudential Bank, but the check was dishonored by Associated Bank by sending it back to Prudential Bank with the words "Payment Stopped" stamped on it. When the police asked Mesina how he came to possess the check, he said it was paid to him by Alexander Lim in a "certain transaction" but refused to elucidate further. Associated Bank filed an action for Interpleader against Jose Go and Mesina to determine which of them is entitled to the proceeds of the check. It was in the appeal on said interpleader case that this Court allowed the deviation from the general principles on cashier's checks on account of the bank's awareness of certain facts that would prevent the payee to collect on the check.

There is no arguing that the peculiar circumstances in Mesina indeed called for such deviation on account of the drawee bank's awareness of certain relevant facts. There is, however, no comparable peculiar circumstance in the case at bar that would justify applying the Mesina disposition. In Mesina, the cashier's check was stolen while it was in the possession of the drawee bank. In the case at bar, the manager's and cashier's checks were personally deposited by Chiok in the account of Nuguid. The only knowledge that can be attributed to the drawee banks is whatever was relayed by Chiok himself when he asked for a Stop Payment Order. Chiok testified on this matter, to wit:

Q:

Now, Mr. witness, since according to you the defendant failed to deliver [this] amount of P1,023,288.23 what action have you undertaken to protect your interest Mr. witness?

A:

I immediately call my lawyer, Atty. Espiritu to seek his legal advise in this matter.

Q:

Prior to that matter that you sought the advise of your lawyer, Atty. Espiritu insofar as the issuing bank is concerned, namely, Asian Bank, what did you do in order to protect your interest?

A:

I immediately call the bank asking them if what is the procedure for stop payment and the bank told me that

you have to secure a court order as soon as possible before the clearing of these checks.[52] (Emphasis supplied.)

Asian Bank, which is now Global Bank, obeyed the TRO and denied the clearing of the manager's checks. As such, Global Bank may not be held liable on account of the knowledge of whatever else Chiok told them when he asked for the procedure to secure a Stop Payment Order. On the other hand, there was no mention that Metrobank was ever notified of the alleged failure of consideration. Only Asian Bank was notified of such fact. Furthermore, the mere allegation of breach on the part of the payee of his personal contract with the purchaser should not be considered a sufficient cause to immediately nullify such checks, thereby eroding their integrity and honor as being as good as cash.

In view of all the foregoing, we resolve that Chiok's complaint should be denied insofar as it prayed for the withdrawal of the proceeds of the subject manager's and cashier's checks. Accordingly, the writ of preliminary prohibitory injunction enjoining Metrobank and Global Bank from honoring the subject manager's and cashier's checks should be lifted.

Since we have ruled that Chiok cannot claim the amounts of the checks from Metrobank and Global Bank, the issue concerning the setting off of Global Bank's judgment debt to Chiok with the outstanding obligations of Chiok is hereby mooted. We furthermore note that Global Bank had not presented[53] such issue as a counterclaim in the case at bar, preventing us from ruling on the same.

BPI's right to the proceeds of the
manager's checks from Global Bank

While our ruling in *Mesina* is inapplicable to the case at bar, a much more relevant case as regards the effect of a Stop Payment Order upon a manager's check would be *Security Bank and Trust Company v. Rizal Commercial Banking Corporation*,[54] which was decided by this Court in 2009. In said case, SBTC issued a manager's check for P8 million, payable to "CASH," as proceeds of the loan granted to Guidon Construction and Development Corporation (GCDC). On the same day, the manager's check was deposited by Continental Manufacturing Corporation (CMC) in its current account with Rizal Commercial Banking Corporation (RCBC). RCBC immediately honored the manager's check and allowed CMC to withdraw the same. GCDC issued a Stop Payment Order to SBTC on the next day, claiming that the check was released to a third party by mistake. SBTC dishonored and returned the manager's check to RCBC. The check was returned back and forth between the two banks, resulting in automatic debits and credits in each bank's clearing balance. RCBC filed a complaint for damages against SBTC. When the case reached this Court, we held:

At the outset, it must be noted that the questioned check issued by SBTC is not just an ordinary check but a manager's check. A manager's check is one drawn by a bank's manager upon the bank itself. It stands on the same footing as a certified check, which is deemed to have been accepted by the bank that certified it. As the bank's own check, a manager's check becomes the primary obligation of the bank and is accepted in advance by the act of its issuance.

In this case, RCBC, in immediately crediting the amount of P8 million to CMC's account, relied on the integrity and honor of the check as it is regarded in commercial transactions. Where the questioned check, which was payable to "Cash," appeared regular on its face, and the bank found nothing unusual in the transaction, as the drawer usually issued checks in big amounts made payable to cash, RCBC cannot be faulted in paying the value of the questioned check.

In our considered view, SBTC cannot escape liability by invoking Monetary Board Resolution No. 2202 dated December 21, 1979, prohibiting drawings against uncollected deposits. For we must point out that the Central Bank at that time issued a Memorandum dated July 9, 1980, which interpreted said Monetary Board Resolution

No. 2202. In its pertinent portion, said Memorandum reads:

MEMORANDUM TO ALL BANKS

July 9, 1980

For the guidance of all concerned, Monetary Board Resolution No. 2202 dated December 31, 1979 prohibiting, as a matter of policy, drawing against uncollected deposit effective July 1, 1980, uncollected deposits representing manager's/cashier's/treasurer's checks, treasury warrants, postal money orders and duly funded "on us" checks which may be permitted at the discretion of each bank, covers drawings against demand deposits as well as withdrawals from savings deposits.

Thus, it is clear from the July 9, 1980 Memorandum that banks were given the discretion to allow immediate drawings on uncollected deposits of manager's checks, among others. Consequently, RCBC, in allowing the immediate withdrawal against the subject manager's check, only exercised a prerogative expressly granted to it by the Monetary Board.

Moreover, neither Monetary Board Resolution No. 2202 nor the July 9, 1980 Memorandum alters the extraordinary nature of the manager's check and the relative rights of the parties thereto. SBTC's liability as drawer remains the same — by drawing the instrument, it admits the existence of the payee and his then capacity to indorse; and engages that on due presentment, the instrument will be accepted, or paid, or both, according to its tenor.[55] (Emphases supplied, citations omitted.)

As in SBTC, BPI in the case at bar relied on the integrity and honor of the manager's and cashier's checks as they are regarded in commercial transactions when it immediately credited their amounts to Nuguid's account.

The Court of Appeals, however, sustained the dismissal of BPI's complaint-in-intervention to recover the amounts of the manager's checks from Global Bank on account of BPI's failure to prove the supposed withdrawal by Nuguid of the value of the checks:

BPI's cause of action against Asian Bank (now Global Bank) is derived from the supposed withdrawal by Nuguid of the proceeds of the two Manager's Checks it issued and the refusal of Asian Bank to make good the same. That the admissions in the pleadings to the effect that Nuguid had withdrawn the said proceeds failed to satisfy the trial court is understandable. Such withdrawal is an essential fact that, if properly substantiated, would have defeated Chiok's right to an injunction. BPI could so easily have presented withdrawal slips or, with Nuguid's consent, statements of account or the passbook itself, which would indubitably show that money actually changed hands at the crucial period before the issuance of the TRO. But it did not.[56]

We disagree with this ruling. As provided for in Section 4, Rule 129 of the Rules of Court, admissions in pleadings are judicial admissions and do not require proof:

Section 4. Judicial admissions. — An admission, verbal or written, made by a party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that no such admission was made.

Nuguid has admitted that FEBTC (now BPI) has paid him the value of the subject checks.[57] This statement by Nuguid is certainly against his own interest as he can be held liable for said amounts. Unfortunately, Nuguid allowed his appeal with the Court of Appeals to lapse, without taking steps to have it reinstated. This course of action, which is highly unlikely if Nuguid had not withdrawn the value of the manager's and cashier's checks deposited into his account, likewise prevents us from ordering Nuguid to deliver the amounts of the checks to Chiok. Parties who did not appeal will not be affected by the decision of an appellate court rendered to appealing parties.[58]

Another reason given by the Court of Appeals for sustaining the dismissal of BPI's complaint-in-intervention was that BPI failed to prove that it was a holder in due course with respect to the manager's checks. [59]

We agree with the finding of the Court of Appeals that BPI is not a holder in due course with respect to manager's checks. Said checks were never indorsed by Nuguid to FEBTC, the predecessor-in-interest of BPI, for the reason that they were deposited by Chiok directly to Nuguid's account with FEBTC. However, in view of our ruling that Nuguid has withdrawn the value of the checks from his account, BPI has the rights of an equitable assignee for value under Section 49 of the Negotiable Instruments Law, which provides:

Section 49. Transfer without indorsement; effect of. – Where the holder of an instrument payable to his order transfers it for value without indorsing it, the transfer vests in the transferee such title as the transferor had therein, and the transferee acquires in addition, the right to have the indorsement of the transferor. But for the purpose of determining whether the transferee is a holder in due course, the negotiation takes effect as of the time when the indorsement is actually made.

As an equitable assignee, BPI acquires the instrument subject to defenses and equities available among prior parties[60] and, in addition, the right to have the indorsement of Nuguid. Since the checks in question are manager's checks, the drawer and the drawee thereof are both Global Bank. Respondent Chiok cannot be considered a prior party as he is not the check's drawer, drawee, indorser, payee or indorsee. Global Bank is consequently primarily liable upon the instrument, and cannot hide behind respondent Chiok's defenses. As discussed above, manager's checks are pre-accepted. By issuing the manager's check, therefore, Global Bank committed in effect its total resources, integrity and honor towards its payment.[61]

Resultantly, Global Bank should pay BPI the amount of P18,455,350.00, representing the aggregate face value of MC No. 025935 and MC No. 025939. Since Global Bank was merely following the TRO and preliminary injunction issued by the RTC, it cannot be held liable for legal interest during the time said amounts are in its possession. Instead, we are adopting the formulation of the Court of Appeals that the amounts be treated as savings deposits in Global Bank. The interest rate, however, should not be fixed at 4% as determined by the Court of Appeals, since said rates have fluctuated since July 7, 1995, the date Global Bank refused to honor the subject manager's checks. Thus, Global Bank should pay BPI interest based on the rates it actually paid its depositors from July 7, 1995 until the finality of this Decision, in accordance with the same compounding rules it applies to its depositors. The legal rate of 6% per annum shall apply after the finality of this Decision.[62]

We have to stress that respondent Chiok is not left without recourse. Respondent Chiok's cause of action to recover the value of the checks is against Nuguid. Unfortunately, Nuguid allowed his appeal with the Court of Appeals to lapse, without taking steps to have it reinstated. As stated above, parties who did not appeal will not be affected by the decision of the appellate court rendered to appealing parties.[63] Moreover, since Nuguid was not impleaded as a party to the present consolidated cases, he cannot be bound by our judgment herein. Respondent Chiok should therefore pursue his remedy against Nuguid in a separate action to recover the amounts of the checks.

Despite the reversal of the Court of Appeals Decision, the liability of Nuguid therein to respondent Chiok for attorney's fees equivalent to 5% of the total amount due remains valid, computed from the amounts stated in said Decision. This is a consequence of the finality of the Decision of the Court of Appeals with respect to him.

WHEREFORE, the Court resolves to DENY the Joint Manifestation and Motion filed with this Court on May 28, 2013.

The petitions in G.R. No. 172652 and G.R. No. 175302 are GRANTED. The Decision of the Court of Appeals in CA-G.R. CV No. 77508 dated May 5, 2006, and the Resolution on the same case dated November 6, 2006 are

hereby REVERSED AND SET ASIDE, and a new one is issued ordering the DENIAL of the Amended Complaint in Civil Case No. Q-95-24299 in Branch 96 of the Regional Trial Court of Quezon City for lack of merit. The Writ of Preliminary Prohibitory Injunction enjoining Asian Banking Corporation (now Global Business Bank, Inc.) from honoring MC No. 025935 and MC No. 025939, and Metropolitan Bank & Trust Company from honoring CC No. 003380, is hereby LIFTED and SET ASIDE.

Global Business Bank, Inc. is ORDERED TO PAY the Bank of the Philippine Islands, as successor-in-interest of Far East Bank & Trust Company, the amount of P18,455,350.00, representing the aggregate face value of MC No. 025935 and MC No. 025939, with interest based on the rates it actually paid its depositors from July 7, 1995 until the finality of this Decision, in accordance with the same compounding rules it applies to its depositors.

The petition in G.R. No. 175394 is hereby rendered MOOT.

The liabilities of spouses Gonzalo B. Nuguid and Marinella O. Nuguid under the Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 77508 remain VALID and SUBSISTING, computed from the amounts adjudged by the Court of Appeals, without prejudice to any further action that may be filed by Wilfred N. Chiok.

SO ORDERED.

Sereno, C.J., (Chairperson), Carpio,[*] Perez, and Jardeleza,**] JJ., concur.

[*] Per Raffle dated April 23, 2012.

**] Per Raffle dated November 26, 2014.

[1] Rollo (G.R. No. 172652), pp. 48-73; penned by Associate Justice Estela M. Perlas-Bernabe (now a member of this Court) with Associate Justices Remedios Salazar-Fernando and Hakim S. Abdulwahid, concurring.

[2] Id. at 487-493.

[3] Id. at 75-79.

[4] This is based on the rate of exchange of P25.50/\$1.00 as of July 5, 1995.

[5] Rollo (G.R. No. 172652), pp. 87-97.

[6] Id. at 98.

[7] Id. at 101.

[8] Id. at 109-110.

[9] Rollo (G.R. No. 175302), p. 91.

[10] The reason for the stop payment order for four CBC checks worth P10 million each was that the "Transaction did not materialize since payee directed us to stop payment." The reason stated in the other checks was that "Transaction incomplete because the payee did not deliver the dollar equivalent. Such above matured checks fully funded."

[11] Rollo (G.R. No. 175302), p. 77.

[12] Id. at 81.

[13] Id. at 85.

- [14] Id. at 85-87.
- [15] Id. at 87-88.
- [16] Id. at 88-89.
- [17] Rollo (G.R. No. 175394), pp. 99-100.
- [18] Records, p. 1290.
- [19] Rollo (G.R. No. 172652), pp. 72-73.
- [20] Id. at 60-62.
- [21] Id. at 63-64.
- [22] Id. at 69-71.
- [23] Id. at 71-72.
- [24] Id. at 542.
- [25] Id. at 543.
- [26] Id. at 21.
- [27] Rollo (G.R. No. 175302), p. 19.
- [28] Rollo (G.R. No. 175394), pp. 26-27.
- [29] Santana-Cruz v. Court of Appeals, 414 Phil. 47, 61 (2001).
- [30] CANON 8 – A lawyer shall conduct himself with courtesy, fairness and candor toward his professional colleagues, and shall avoid harassing tactics against opposing counsel.
- [31] Rañola v. Spouses Rañola, 612 Phil. 307, 313 (2009).
- [32] BPI Family Savings Bank, Inc. v. Manikan, 443 Phil. 463, 467-468 (2003).
- [33] Rollo (G.R. No. 172652), pp. 130-131.
- [34] Id. at 131.
- [35] 189 Phil. 516, 523-524 (1980).
- [36] G.R. No. 108555, December 20, 1994, 239 SCRA 310, 322.
- [37] Benguet State University v. Commission on Audit, 551 Phil. 878, 886-887 (2007).
- [38] Rollo (G.R. No. 172652), p. 72.
- [39] CIVIL CODE, Article 1385.
- [40] Rollo (G.R. No. 172652), p. 61.
- [41] Id. at 62.
- [42] Heirs of Ramon C. Gaité v. The Plaza, Inc., G.R. No. 177685, January 26, 2011, 640 SCRA 576, 589.
- [43] Referred to as “resolution” in the Old Civil Code.

[44] Sps. Borromeo v. Hon. Court of Appeals, 573 Phil. 400, 412 (2008); Integrated Packaging Corporation v. Court of Appeals, 388 Phil. 835, 845 (2000).

[45] Liongson v. Martinez, 36 Phil. 948, 952 (1917).

[46] Sec. 7. Attachment of real and personal property; recording thereof. – Real and personal property shall be attached by the sheriff executing the writ in the following manner:

x x x x

(d) Debts and credits, including bank deposits, financial interest, royalties, commissions and other personal property not capable of manual delivery, by leaving with the person owing such debts, or having in his possession or under his control, such credits or other personal property, or with his agent, a copy of the writ, and notice that the debts owing by him to the party against whom attachment is issued, and the credits and other personal property in his possession, or under his control, belonging to said party, are attached in pursuance of such writ[.]

[47] Sec. 8. Effect of attachment of debts, credits and all other similar personal property. – All persons having in their possession or under their control any credits or other similar personal property belonging to the party against whom attachment is issued, or owing any debts to him, at the time of service upon them of the copy of the writ of attachment and notice as provided in the last preceding section, shall be liable to the applicant for the amount of such credits, debts or other similar personal property, until the attachment is discharged, or any judgment recovered by him is satisfied, unless such property is delivered or transferred, or such debts are paid, to the clerk, sheriff, or other proper officer of the court issuing the attachment.

[48] Rollo (G.R. No. 172652), p. 88.

[49] Tenio-Obsequio v. Court of Appeals, G.R. No. 107967, March 1, 1994, 230 SCRA 550, 560.

[50] Rollo (G.R. No. 172652), pp. 57-59 and 66.

[51] The Court stated in the Decision that Jose Go's name did not appear on the check (Mesina v. Intermediate Appellate Court, 229 Phil. 495, 504 [1986]).

[52] TSN, March 17, 1997, pp. 14-15; rollo (G.R. No. 172652), pp. 309-310.

[53] Rollo (G.R. No. 175394), pp. 228-229.

[54] 597 Phil. 402 (2009).

[55] Id. at 409-410.

[56] Rollo (G.R. No. 172652), p. 63.

[57] Id. at 185-186.

[58] Pinlac v. Court of Appeals, 421 Phil. 516, 520-521 (2001).

[59] Rollo (G.R. No. 172652), pp. 63-64.

[60] Bank of the Phil. Islands v. Court of Appeals, 541 Phil. 595, 610 (2007).

[61] BPI Family Savings Bank, Inc. v. Manikan, *supra* note 32 at 467.

[62] Bangko Sentral ng Pilipinas Circular No. 799 effective July 1, 2013.

[63] Pinlac v. Court of Appeals, *supra* note 58.

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